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PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE UNDER THE KYOTO PROTOCOL

Text proposed by the Co-Chairmen of the Joint Working Group on Compliance

I. INTRODUCTION

A. Mandate

1. At the thirteenth sessions of the subsidiary bodies, the Joint Working Group on Compliance (JWG) requested the Co-Chairmen, with the assistance of the secretariat, to further develop the text on procedures and mechanisms on compliance under the Kyoto Protocol, to serve as the basis for negotiations, along with inputs from Parties, at the second part of the thirteenth sessions of the subsidiary bodies (FCCC/SBI/2000/10, annex III).

B. Scope of the note

2. In order to fulfil their mandate, the Co-Chairmen have drawn on the views expressed at the first part of the thirteenth sessions as well as at informal consultations held in New Delhi, India from 12 to 14 October 2000. In view of the number of issues that remain to be resolved, and the limited time available, the document has been developed by the Co-Chairmen to facilitate and advance negotiations at the second part of the thirteenth sessions.

C. Possible action by the Joint Working Group

3. Parties are invited to use the text presented in this note as the basis of their negotiations at the second part of the thirteenth sessions of the subsidiary bodies. The JWG should fulfil its mandate set out in decision 8/CP.4 and provide a report on its findings to the Conference of the Parties to adopt a decision on procedures and mechanisms on compliance under the Kyoto Protocol at its sixth session.

II. TEXT

PROCEDURES AND MECHANISMS ON COMPLIANCE UNDER THE KYOTO PROTOCOL

Section I. General provisions

Objective

1. The objective of the procedures and mechanisms on compliance is to facilitate, promote and enforce compliance with the commitments under the Protocol, as specified in the following provisions [, and in accordance with the principles of the Convention].

[Principles

Option 1

2. The operation of the procedures and mechanisms on compliance shall be guided by the principles set out in Article 3 of the Convention, and shall:

(a) Be proportionate, in that the procedures, mechanisms and consequences should take into account the cause, type, degree and frequency of non-compliance;

(b) Adhere to the principle of common but differentiated responsibilities as defined in the Convention;

(c) Treat all Parties that have undertaken the same commitments in an equal manner;

(d) Be based on principles of efficiency and due process allowing Parties, and in particular the Party concerned, an opportunity for a full, fair and timely consideration and resolution of compliance-related issues;

(e) Provide for reasonable certainty; prevention of non-compliance; importance of domestic compliance and enforcement; creating appropriate incentives to comply; restoration to the environment of excess tonnes; automaticity; and transparency.

Option 2

3. *Principles governing the operation of the procedures and mechanisms on compliance should not be expressly provided for in the text, as they are contained in the Convention and the Protocol and could be implicit from the content of the text, or be reflected in a preamble or in a decision accompanying the adoption of the procedures and mechanisms on compliance.]*

Section II. Establishment and structure

Compliance Committee

1. The Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP) hereby establishes a Compliance Committee (hereinafter referred to as the "Committee") [pursuant to Article 18[1] of the Protocol].

2. The Committee shall function through [a plenary, and] two branches, namely, the facilitative branch and the enforcement branch.

3. The Committee shall consist of [15] [...] members, elected by the COP/MOP [based on equitable geographical representation of the five regional groups, and taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau].

4. There shall be an equal number of alternate members, elected by the COP/MOP on the same basis as members of the Committee.

5. Members of the Committee and their alternates shall be nominated by the Parties and shall serve in their personal capacity. Members shall have recognized competence relating to climate change and in relevant fields such as the scientific, technical, socio-economic or legal fields.

6. The Committee shall appoint a bureau consisting of [two] [...] members, [one] [...] to be chosen from the facilitative branch and [one] [...] from the enforcement branch.

7. The facilitative branch and the enforcement branch shall interact and cooperate in their functioning and, as necessary, on a case-by-case basis, the [plenary] [bureau] may designate one or more members of one branch to contribute to the work of the other branch on a non-voting basis.

Facilitative branch

Membership

8. The facilitative branch shall consist of [10] [...] members of the Committee elected by the COP/MOP on the basis of [equitable geographical representation of the five UN regional

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[1] All articles referred to in this text are those of the Kyoto Protocol

groups, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau], [five] [...] of whom shall be elected at the first session of the COP/MOP, for a term of two years, and [five] [...]for a term of four years. Every two years thereafter, the COP/MOP shall elect [five] [...] new members for a term of four years. Outgoing members may be re-elected for one consecutive term.

9. The membership of the facilitative branch shall reflect in a balanced manner the competence in the fields referred to in paragraph 5 of this section.

Mandate

Option 1

10. The facilitative branch shall be responsible for providing advice and facilitation to all Parties in implementing the Protocol and for promoting the compliance of [Annex I] Parties with their commitments under the Protocol, as set out in section IV, paragraphs 1 to 4.

[11. Taking into account the differentiated responsibilities of Annex I and non-Annex I Parties, the facilitative branch shall, with regard to non-Annex I Parties, apply the consequences set out in section IV, paragraphs 1 to 4, and with respect to Annex I Parties the consequences set out in section IV, paragraphs ... to ....]

[12. The facilitative branch shall not apply the consequences set out in section IV, paragraphs ... to ....]

Option 2

13. The facilitative branch shall be responsible for promoting compliance [and] [by] providing advice and facilitation concerning individual Parties' implementation of commitments in and under the Protocol, as set out in section IV, paragraphs 1 to 4.

Procedures to be followed

14. The facilitative branch shall follow the procedure set out in section III, paragraphs 14 to 24.

15. [The multilateral consultative process referred to in Article 16 of the Protocol may be designated to perform the responsibilities of the facilitative branch.] [The facilitative branch shall constitute the multilateral consultative process referred to in Article 16 of the Protocol.]

Enforcement branch

Membership

16. The enforcement branch shall consist of [five] [...] members of the Committee elected by the COP/MOP on the basis of [equitable geographical representation of the five regional groups,

taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau] [[one half from among Annex I Parties and one half from among non-Annex I Parties] [a larger representation from Annex I Parties] [on the basis of equitable geographical representation of the relevant regional groups]]. The COP/MOP shall, at its first session, elect [two] [...] members for a term of two years and [three] [...] members for a term of four years. Every two years thereafter, the COP/MOP shall alternately elect [two] [...] or [three] [...] new members, as appropriate, for a term of four years. Outgoing members may be re-elected for one consecutive term.

17. The [majority of the] members of the enforcement branch shall have legal experience.

Mandate

18. The enforcement branch shall be responsible for determining whether:

(a) A[n Annex I] Party is in non-compliance with [Article 3.1] [, Articles 2 and 3];

[(b) A[n Annex I] Party is in non-compliance with Article 3.14];

(c) A[n Annex I] Party is in non-compliance with Article 5.1 and/or Article 7.1, [7.2] and 7.3;

(d) In the event of a disagreement, to apply adjustments to inventories under Articles 5.2 and 7.4;

(e) A[n Annex I] Party is or is not meeting any eligibility requirement of [Annex I] Parties under Articles 6, [12] and/or 17.

19. The enforcement branch shall also be responsible for applying the consequences set out in section IV, paragraphs .... to ....

Procedures to be followed

20. The enforcement branch shall follow the procedures set out in section III, paragraphs 25 to 40.

21. [The proceedings of the enforcement branch shall apply to Annex I Parties only.] [The coverage of the enforcement branch shall be based on the nature of commitments, not on Party status.]

[22. In applying the consequences set out in section IV, a certain degree of flexibility shall be allowed by the enforcement branch to the Parties included in Annex I undergoing the process of transition to a market economy.]

Section III. Procedures

Submission of questions of implementation

1. The Committee may receive questions of implementation indicated in a report of the expert review teams under Article 8, or submitted by:

(a) Any Party with respect to itself; or

(b) Any Party with respect to another Party, supported by corroborating information [, with respect to the facilitative branch only].

2. Submissions under subparagraph 1 (b) of this section shall be made available by the secretariat to the Party concerned, within [...] weeks of the receipt by the Committee of a question of implementation.

3. In addition to the reports referred to in paragraph 1 of this section, the Committee shall also receive all other final reports of the expert review teams. The Committee shall notify the secretariat that it is not proceeding with any questions of implementation in relation to any of these final reports.

Reports of expert review teams

Option 1

4. Pursuant to Article 8.3 of the Protocol, the reports of expert review teams shall be considered by a panel of the COP/MOP with a view to ascertaining that the reports are in accordance with the guidelines to be established by the COP/MOP.

5. The panel shall consist of [...] members elected annually by the COP/MOP on the basis of [equitable geographical representation of the five regional groups, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau]. It shall meet as necessary during the inter-sessional period of the COP/MOP, and shall be presided over by [...].

6. The panel shall consider the report of the expert review teams at its first session after transmittal of the report to the COP/MOP, and shall act expeditiously in every case.

7. The panel shall inform the Committee in writing of the results of its consideration of the report of the expert review team. It shall ensure, and not hinder, consideration of the report by the Committee at the earliest possible time.

Option 2

No such provision is needed.

Preliminary procedures

Allocation

8. The [bureau] [plenary] shall allocate questions of implementation to the appropriate branch in accordance with the responsibilities of each branch set out in section II, paragraphs 10 to 13 and 18 to 19.

Preliminary examination

9. The [relevant branch] [plenary] shall, [in accordance with agreed criteria adopted by the COP/MOP], make a preliminary examination of questions to ensure that, except in the case of a question raised by a Party concerning itself, the question before it:

(a) Is supported by sufficient information; and

(b) Is not *de minimis* or ill-founded, based on the requirements of the Protocol and the rules made pursuant to the Protocol.

10. The preliminary examination of a question shall be completed within [...] weeks.

11. After the preliminary examination of a question, the Party concerned shall be notified in writing and, in the event of a decision to proceed, shall be provided with a statement identifying the question of implementation, the information on which the question is based, and the branch that will consider the question.

12. Within [...] weeks after the receipt of the notification by the Party concerned under paragraph 11 of this section, the Party concerned shall be given an opportunity to comment on all information relevant to the question and the decision to proceed.

Procedures for further handling of questions

13. The following procedure shall apply to [the plenary,] the facilitative branch and the enforcement branch, except where otherwise provided in respect of the enforcement branch.

Participation of Parties

14. The Party concerned shall be entitled to designate one or more persons to represent it during the consideration of the question. The Party concerned shall participate in the deliberations but not in the elaboration and adoption of a recommendation or decision of the branch.

[Avoidance of conflict of interest

15. No member of a branch who is [a national of] [nominated by] a Party that is involved in a question before the branch shall participate in the proceedings relating to that question.]

Sources of information

16. The branch shall base its deliberations on information provided by:

(a) Reports of the expert review teams under Article 8 of the Protocol;

(b) The Party or Parties concerned;

(c) Reports of the Conference of the Parties (COP), the COP/MOP, and the subsidiary bodies;

(d) The other branch.

17. Inter-governmental and non-governmental organizations with relevant factual and technical information may submit such information to the branch.

18. Any information utilized by the branch shall be made available to the Party concerned and, subject to any rules relating to confidentiality, to the public.

Recommendations and decisions

19. The adoption of recommendations and decisions shall require a quorum of [...].

20. The members of [the plenary and] the branches shall make every effort to reach agreement on any recommendations or decisions by consensus. If all efforts at reaching consensus have been exhausted, the recommendations or decisions shall as a last resort be adopted by a majority of at least [three quarters] of the members of [the plenary or] the branch present and voting.

21. The Party shall be given an opportunity to comment on any recommendation or decision of the branch.

22. The branch shall forthwith notify the Party concerned in writing of its recommendation or decision, with conclusions and reasons therefor, and shall make copies available to all other Parties and to the public.

Translation of documents

23. Any question of implementation submitted under paragraph 1 of this section, any notification under paragraph 11 of this section, and any recommendation or decision of the relevant branch shall be translated into one of the United Nations official languages, if requested by the Party concerned.

Rules of procedure

24. The Committee may further develop rules of procedure for the branches, including rules on confidentiality, consistent with these procedures, for adoption by the COP/MOP.

Procedures pertaining to the enforcement branch

Written submission

25. Within [....] weeks after the receipt of the notification under paragraph 11 of this section and not less than [....] weeks before the branch is scheduled to consider the question of implementation, the Party concerned may make a written submission to the enforcement branch, including rebuttal of information submitted to the branch.

Hearing

26. If so requested in writing by the Party concerned within [....] weeks of the notification, the enforcement branch shall hold a hearing at which the Party concerned shall have the opportunity to present its views. The Party concerned may present expert testimony or opinion at the hearing. Such a hearing shall be held in public unless the branch decides that part or all of the hearing shall take place in private.

27. The enforcement branch may put questions to and seek clarification from the Party concerned, either in the course of such a hearing or at any time in writing, and the Party concerned may provide a response within [....] weeks thereafter.

Reference to the facilitative branch

28. The enforcement branch may, at any time, where appropriate, refer a question to the facilitative branch for consideration.

Preliminary finding

29. Within [....] weeks from receipt of the Party's written submission under paragraph 25 of this section, or within [....] weeks from the date of any hearing pursuant to paragraph 26 of this section, or within [....] weeks from the notification under paragraph 11 of this section if the Party has not provided a written submission, whichever is the latest, the enforcement branch shall:

(a) Make and issue a preliminary finding that the Party concerned is in breach of a commitment under the articles referred to in section II, paragraphs 18 to 19;

(b) Otherwise determine not to proceed further with the question.

30. The preliminary finding or the decision not to proceed shall include conclusions and reasons therefor.

31. The enforcement branch shall forthwith notify the Party concerned in writing of its preliminary finding or decision not to proceed. The decision not to proceed shall be communicated to other Parties and to the public.

Final decision

32. Within [...] weeks from the receipt of the notification of the preliminary finding, the Party concerned may provide a further written submission. If that Party does not do so within that period of time, the enforcement branch shall issue a final decision confirming its preliminary finding.

33. If the Party concerned provides a further written submission, the branch shall, within [...] weeks from the date it received the further submission, consider it and make a final decision, indicating whether the preliminary finding is confirmed, and, if so, which part.

34. The final decision shall include conclusions and reasons therefor.

35. The enforcement branch shall forthwith notify in writing the Party concerned of its final decision and communicate it to the other Parties and to the public.

Expedited procedure

36. Where a question relates to eligibility requirements of Annex I Parties under Articles 6, [12] or 17, including adjustments related to the observance of eligibility requirements, paragraphs 25 to 35 of this section shall apply, except that:

(a) The preliminary examination referred to in paragraph 9 of this section shall be conducted within [one] week;

(b) The branch shall issue its preliminary finding or decision not to proceed within [six] weeks of being informed in writing of a question of implementation;

(c) The Party concerned may make a written submission within [four] weeks after receipt of the notification referred to in paragraph 31 of this section;

(d) The branch shall issue its final decision within [two] [...] weeks of receiving any submission referred to in paragraph 32 of this section.

37. Where a Party's eligibility has been suspended under Articles 6, [12] or 17, and if the Party concerned requires the enforcement branch to reinstate its eligibility, the enforcement branch shall decide on such requests as soon as possible.

38. In the event of a disagreement whether to apply an adjustment to inventories under section II, paragraph 18 (d), the enforcement branch shall decide the matter within [...] weeks of being informed in writing of such a disagreement. In doing so, the enforcement branch may draw on any technical expertise it deems appropriate.

Adoption of decisions

39. The adoption of decisions of the enforcement branch shall require a quorum of [...].

40. The members of the enforcement branch shall make every effort to reach agreement on decisions by consensus. If all efforts at reaching consensus have been exhausted, the decisions shall as a last resort be adopted by a majority of at least [three quarters] of the members of the branch present and voting.

Appeal

Option 1

41. The Party concerned may appeal against a decision of the enforcement branch [involving consequences relating to its non-compliance with [Article 3.1] [Articles 2 and 3] [and Article 4.1] [or against a decision that a Party does not meet the eligibility requirements for one or more of the mechanisms set out under Articles 6, [12] and 17].

42. An appeal may be made to [the COP/MOP] [an appellate body consisting of three members who are recognized authorities in relevant fields]. The COP/MOP may agree by [consensus, except that the Party concerned may not participate in the decision with respect to itself] [[...] majority] to override a decision made by the [enforcement branch] [appellate body] on issues set out in paragraph 41 of this section.

43. The working procedure for appeals may be developed by the COP/MOP.

Option 2

There should be no procedure for appeal.

COP/MOP

44. The Committee shall report on all its activities to each ordinary session of the COP/MOP.

[45. The COP/MOP shall consider the reports of the Committee on the progress of its work, and provide general policy guidance, including on any issues regarding implementation that may have implications for the work of the subsidiary bodies.]

Additional period for fulfilling commitments

46. For the purpose of fulfilling its commitment under Article 3.1 a Party may, until [[one] month after the date set by the COP/MOP for the completion of the expert review process for the last year of the commitment period] [[36] months after the end of the commitment period]:

(a) Continue to acquire [and transfer] emissions reduction units (ERUs), [certified emissions reduction (CERs)] and part of assigned amount (PAAs) under Articles 6, [12] and 17

from the preceding commitment period, provided it has not been found ineligible to participate in the relevant mechanism under these Articles; or

[(b) Make a voluntary payment into a climate change fund or funds].

Section IV. Consequences

Facilitative branch

Option 1

1. The facilitative branch shall, with regard to non-Annex I Parties, depending upon the particular question before it, decide upon one or more of the following consequences:

(a) Provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building, taking into account the provisions of Article 4.7 of the Convention and the relevant decisions of the COP.

2. The facilitative branch shall, with regard to Annex I Parties, depending on the particular question before it and taking into account the cause, type, degree and frequency of the non-compliance, decide upon one or more of the following consequences:

(a) Provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Making recommendations to the Party concerned;

(c) Publication of non-compliance [or potential non-compliance];

(d) Issuing of cautions;

(e) Initiation by the facilitative branch of the enforcement procedure set out in section III.

Option 2

3. The facilitative branch shall, depending upon the particular question before it, decide upon one or more consequences, *inter alia*:

(a) Provision of advice and facilitation of assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building;

[(c) Making recommendations];

(d) Publication of non-compliance or [potential non-compliance];

[(e) Issuing of cautions;]

Option 3

4. The facilitative branch may, as appropriate:

(a) Recommend an indicative list of organizations with expertise that may assist a Party in its implementation of the Protocol;

(b) Arrange for individuals from the roster of experts to advise on and participate in measures to assist a Party in the implementation of its commitments and/or to help it return to compliance;

(c) Mediate in a Party's efforts to approach relevant international organizations for assistance, including financial assistance;

(d) Facilitate and mediate a Party's easier access to and acquisition of technology appropriate to the implementation of its commitments.

Enforcement branch

[5. [The consequences set out in paragraphs ... to ... of this section shall apply to Annex I Parties only.] [Consequences shall apply based on the commitment involved, not based on Party status.]]

6. [Where appropriate, the enforcement branch [may refer the application of any consequence to the facilitative branch,] [or may itself apply one or more of the consequences set out in paragraphs 1 to 4 of this section].]

Articles 5 and 7

[7. Where the enforcement branch has determined that [a Party is not in compliance with Articles 5 or 7.1.[7.2], 7.3,] [the inventory of a Party has been adjusted by [... per cent]], it [may] [shall] apply one or more of the following consequences, taking into account the cause, type, degree and frequency of that Party's non-compliance:

[(a) Declaration of non-compliance;]

(b) The Party concerned shall, within three months of the determination of the enforcement branch, develop and commit itself to an "Articles 5 and 7 plan" to be approved by the enforcement branch, which shall include, *inter alia*:

(i) An analysis of the causes of the Party's non-compliance ;

(ii) Measures that the Party intends to implement in order to remedy the non-compliance;

(iii) A timetable for implementing such measures within a time-frame not exceeding [x] months, including clear benchmarks for measuring regular progress in their implementation;

The Party concerned shall submit to the enforcement branch progress reports on the implementation of the Articles 5 and 7 plan on a [quarterly] [regular] basis. On the basis of the progress report, the enforcement branch may decide on further measures, as appropriate;

(c) Suspension of rights and privileges of the Party concerned under terms to be specified by the enforcement branch.]

Articles 6, 12 and 17

7. Where the enforcement branch has determined that a Party does not meet an eligibility requirement under Articles 6, [12] or 17, it shall suspend that Party's eligibility [and the eligibility of other Parties operating under an Article 4 agreement] under the article in question, until the enforcement branch has decided to reinstate such Party's eligibility.

Article 3.1

8. Where the enforcement branch has determined that a Party, following the period referred to in section III, paragraph 41, is not in compliance with Article 3.1, it shall [apply] [request the Party to choose] [one or more of] the following consequences [taking into account the cause, type, degree and frequency of that Party's non-compliance]:

(a) [Recommendation by the enforcement branch to the Party concerned of policies and measures for implementation [taking into account Articles 2.3 and 3.14]];

(b) [Publication of the Party's non-compliance];

(c) [Deduction of [1.3][1.x][x] times the [number of] excess tonnes from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred];

(d) [Acquisition of units of assigned amount originating in the commitment period under consideration [at a rate of 1.1] or originating in the subsequent commitment period [at a rate of 1.3], or a combination thereof, provided that in each case the proportion of units that

exceed the amount needed to meet the Party's commitment under Article 3.1 shall be transferred to the relevant fund to be established under the clean development mechanism (CDM) for its use for adaptation purposes.];

(e) [Payments by the Party concerned into a compliance fund, in accordance with paragraphs 10 to 14 of this section;]

(f) [Restriction on transferring [and acquiring] under Articles [3] [4] [6] [12] [17] [above a level and for a period of time to be determined by the enforcement branch] [until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period]];

(g) [Development of a compliance action plan, in accordance with paragraphs 15 to 21 of this section] [taking into account Articles 2.3 and 3.14];

(h) [Financial penalty;]

(i) [Suspension of rights and privileges;]

[Compliance fund

10. The Party concerned [shall] [may] make payments at a rate to be determined by the enforcement branch that shall be no more than [...] into a compliance fund to be established by the Party.

11. Each such compliance fund shall be administered by an appropriate body nominated by the Party concerned, the details of which shall be notified by the Party to the enforcement branch.

12. The body administering the compliance fund shall use the income and any interest earned:

(a) To acquire, at a reasonable rate that shall not be higher than [...] parts of assigned amount originating in the commitment period in which the non-compliance occurred, or, if no such parts of assigned amount are available;

(b) To reduce anthropogenic emissions of greenhouse gases [or enhance anthropogenic removals by sinks] on one or more domestic and/or international projects. Such projects shall, within [three] months of the date of the determination of non-compliance by the enforcement branch, be submitted by the Party to the [enforcement branch] [appropriate body under paragraph 11 of this section] for its approval which shall take into account the short and medium-term environmental benefits as well as their cost-effectiveness.

13. The parts of assigned amount acquired by the compliance fund or the excess emissions restored by such projects shall not be double-counted towards the Party's compliance with its

quantified emission limitation reduction commitments during the commitment period in which the compliance fund is in operation.

14. The Party shall submit to the enforcement branch a progress report on the operation and the results of the fund annually, no later than 15 April, as well as audited accounts. On the basis of that report and the accounts, the enforcement branch may decide upon one or more of the consequences set out in section IV, paragraphs 1 to 4, and/or apply another consequence set out in section IV, paragraph 8.]

Compliance action plan

15. [The Party concerned shall restore [1.x times] the excess emissions.]

16. [The Party concerned shall, within [...] months after the determination of non-compliance, develop and submit to the enforcement branch for its [approval] [advice] a compliance action plan setting out how it proposes to restore [[1.x][x] times] the excess emissions, [which [may] include]:

(a) An analysis of the causes for the Party's non-compliance ;

(b) [[Domestic policies and measures] [one or more means, including for example [domestic measures (such as non-allocation of tonnes under a domestic cap-and-trading system);] [use of Articles 6, 12 and/or 17;] [use of a voluntary compliance fund in accordance with paragraph X;]] by which it proposes to restore [[1.x][x] times] the excess emissions, and an analysis of their expected impact on the Party's greenhouse gas emissions];

(c) [A declaration not to make transfers under Article 3.11, paragraph 11 [for the duration of the implementation of the compliance action plan][until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period]];

(d) [Detailed information on the economic dimension of the implementation of any action under subparagraph (b) above] ;

(e) [A timetable for implementing the action under subparagraph (b) within a time-frame not exceeding [three] years, including [clear benchmarks] for measuring annual progress in the implementation];

(f) [An assessment of the compatibility of the compliance action plan with the strategy developed by the Party [and, in the case of a Party in an Article 4 agreement, developed by the Parties under that agreement] to comply with its obligations during the commitment period in which the compliance action plan is implemented];

(g) [An assessment of whether or not the compliance action plan complies with Articles 2.3 and 3.14].

17. [Units of assigned amount originating in the first commitment period shall be applied toward restoring excess emissions at a rate of [ ]].

18. [The enforcement branch shall [review] [advice on] the compliance action plan to ensure that it is [complete and] [reasonably] calculated to restore [[1.x][x] times] the excess emissions [and if so, approve it]].

19. [The excess emissions restored under the compliance action plan may not be double-counted toward the Party's compliance with its quantified emission limitation or reduction commitment during the commitment period in which the compliance action plan is implemented].

20. [The Party concerned shall submit a progress report on the implementation of the compliance action plan to the enforcement branch annually no later than [...]].

21. [On the basis of that progress report, the enforcement branch [may decide upon one or more of the consequences related to facilitation set out in paragraphs 1 to 4 and/or apply another consequences set out in paragraph 8 of this section.] [shall determine whether the requisite tonnes have been restored]. In the case where the enforcement branch determines [within a specific time-frame], that some or all of the requisite tonnes have not been restored, it shall deduct the remaining tonnes from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.]

[Articles 2 and 3]

[Article 3.14]

[Application of Article 4.5 and 4.6

22. If at the end of the commitment period one or more Parties operating under Article 4 are found not to be in compliance with Articles 5 and 7, each Party to an agreement under Article 4 shall be responsible for its own level of emissions set out in the agreement.

23. In accordance with Article 4.6, any non-compliance consequences under this paragraph shall apply to both the regional economic integration organization and any Party that has exceeded its level of emissions as notified in accordance with Article 4.

24. Where Article 4.5 applies, the Parties operating under such agreement shall not be able to operate under an Article 4 agreement with respect to the commitment period following the period for which the non-compliance with Article 3.1 occurred; and Annex B commitments shall apply.

25. Where Article 4.5 applies, another Party operating under that Article 4 agreement shall be able to carry over the assigned amount under Article 3.13 only to the extent that the difference between its emissions and its assigned amount under Article 3 is greater than the amount by

which the non-complying Parties under Article 4 have exceeded their respective levels of emissions.

26. Where Article 4.5 applies, a Party operating under that agreement shall not be entitled to add units of assigned amount originating in any other Party, whether gained under the agreement itself, under any other agreement or under Articles 3.3, 3.4, 6, 12 or 17, in meeting its own level of emissions set out in the agreement.]

Section V. Other provisions

Secretariat

1. The secretariat shall perform the following functions:

(a) Channel information to the Committee;

(b) Service the meetings of the Committee;

(c) Act as the channel of communication with other Protocol bodies.

Relationship with Article 16

2. [The multilateral consultative process under Article 16 shall provide advice and facilitate assistance [to non-Annex I Parties] with respect to issues relating to their compliance with the Protocol.]

Relationship with Article 19

3. The Committee shall operate [without prejudice to] [independent of] Article 19 of the Protocol [and decisions under Article 12].

[Evolution] [Amendment]

Option 1

4. [Subject to Article 18,] the procedures and mechanisms on compliance may be modified by consensus of the Parties to the Protocol, taking into account any amendment to the Protocol, decisions of the COP/MOP and experience gained with the working of the process.]

Option 2

5. [The procedures and mechanisms on compliance shall be amended in accordance with Article 20 of the Protocol.]

Adoption of procedures and mechanisms on compliance

Option 1

6. The COP recommends that the COP/MOP, at its first session, adopt a decision on the procedures and mechanisms on compliance.

Option 2

7. The COP recommends that the COP/MOP, at its first session, adopt the procedures and mechanisms on compliance, applicable with immediate effect on a politically binding and interim basis.

8. The COP/MOP further recommends that the COP/MOP1, at its first session, adopt an identical text in a legally binding form by amendment of the Protocol.

Option 3

9. The COP decides, [at its sixth session] [before entry into force of the Protocol], to adopt an agreement on procedures and mechanisms on compliance to be an integral part of the Protocol, and to enter into force at the same time as the Protocol. Such an agreement may contain a final clause to provide for tacit adherence through signature by Parties that have already ratified the Protocol, and for affirmative adherence by other Parties.

Option 4

10. The COP recommends that the COP/MOP, at its first session, adopt a decision on procedures and mechanisms on compliance.

11. The COP further decides to recommend that the COP/MOP include in the amendment establishing the second commitment period the procedures and mechanisms on compliance, including legally binding consequences that would be applicable to the first commitment period.

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